IN THE HIGH COURT OF BOMBAY AT GOA

MISCELLANEOUS CIVIL APPLICATION NO.41 OF 2005
IN FIRST APPEAL NO. 215 OF 2000

1. Smt Santan Colaco & Ors. ...Applicants.

Versus

1. Kadamba Transport Corporation Ltd. & Anr. ... Respondents.

Ms. K. Sambari, advocate for the applicants.

Mr. A. R. Kantak, advocate for respondent no.1.

CORAM : S. S. PARKAR, J.

DATE : 9th June, 2005.

ORAL ORDER

Heard both sides. This application is filed by the respondents, who are the original claimants who had claimed compensation before the Motor Accident Claims Tribunal, South Goa, Margao. The claim for compensation made in the claim petition lodged by the widow and minor son was in the sum of Rs.l,25,000/- . However, the Tribunal found that the claimants were entitled for more than the amount claimed in the Claim Petition, and, therefore, after giving notice and hearing to the respondents, who are the appellants in this Court, granted a sum of Rs.l,71,500/- by way of compensation to the claimants. The award is challenged by the appellants in this Court by

filing First Appeal in the year 2000. Neither before the trial Court when it issued notice to the respondents/appellants for increasing the amount payable to the claimants by way of compensation, nor in this Court, the claimants have made a claim for higher amount than the amount awarded to them, either by filing appeal in this Court or by filing cross-objections in the appeal filed by the respondents. The claimants have filed this application in the year 2005, that is after a period of about five years for amendment of the original claim and seek to substitute the figure of Rs.3,00,000/- in place of Rs.l,25,000/-. This application is made too late in the day. The claimants should have realized it initially when the Tribunal issued notice to the other side to show cause why the sum of Rs.1,71,000/- should not be awarded to the claimants though the claim was made for a sum of Rs.l,25,000/- only. Even thereafter, the claimants did not choose to prefer appeal to this Court, nor have they filed cross-objections after the appeal was filed by the respondents. Such amendment application cannot be allowed at this belated stage. In this application it is not mentioned as to how the claimants can claim compensation of Rs.3,00,000/-. The only reason given in the application is that the age of the deceased was stated to be 28 years, in the Claim Petition, though he was 27 years of age at the time of his death. The date of birth is not mentioned to find out the exact age of the deceased.

2. In the circumstances, this application is rejected.

S. S. PARKAR, J.

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